

REMARKS

The claims currently stand restricted to Group I, claims 10 and 12-18, and Group II, claims 19 and 21-30. There is no dispute that statutory law allows the Patent and Trademark Office to restrict an application to one invention, and MPEP and relevant case law have long recognized this restriction practice as a means of preventing the overburdening of an Examiner with having to examine two or more inventions that are independent and/or distinct in a single application. However, MPEP §803 makes it clear that "if the search and examination of an entire application can be made without the serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct invention." In this case, the record suggests that the Examiner will not be overburdened by examining the entire application since the Examiner has already examined the entire application in an office action dated July 7, 2004, again in an office action dated July 20, 2004, again in an office action dated January 3, 2005 and yet again in an office action dated July 11, 2005. Therefore, Applicants respectfully request that the restriction requirement be withdrawn and that the entire application be examined on the merits. Alternatively, Applicants respectfully invite the Examiner to make it clear in the record how examining the entire application now would be overburdensome, but apparently not so in the past, so that Applicants have a fair opportunity to rebut any such finding. Thus, the mandate of MPEP §803 appears to require that all the claims be examined on the merits, and Applicants respectfully request that this be done.

Even if this application were appropriate for restriction after the entire application has been examined at least four times, the restriction requirement is justified on the basis that the process as claimed can be practiced by another materially different apparatus which does not require a plunger. In response, Applicants have amended claim 19 and claim 25 to include the plunger. Therefore, the restriction requirement has been rendered moot, and the justification set forth in the office action no longer exists. Therefore, Applicants again respectfully request that the restriction requirement be withdrawn and that all of the claims be examined on the merits. However, in order to be responsive to the restriction requirement, Applicants would tentatively elect Group I, and claims 10 and 12-18.

Respectfully Submitted,



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